

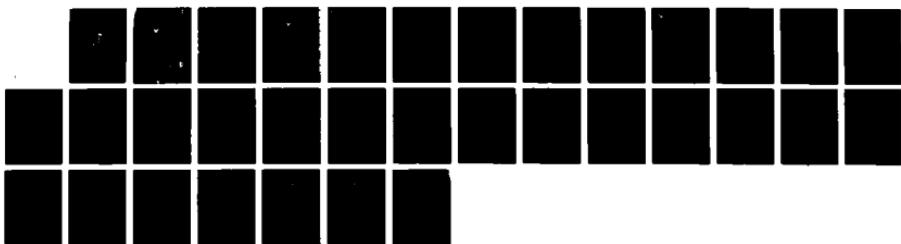
AD-A179 939 THE REVOLVING DOOR: ARE OUR ETHICS SHOWING?(U) AIR
COMMAND AND STAFF COLL MAXWELL AFB AL M A CRAVENS.
APR 87 ACSC-87-0570

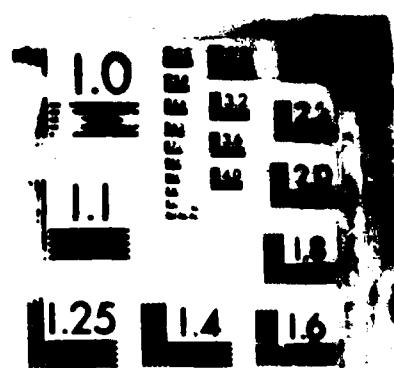
1/1

UNCLASSIFIED

F/G 5/5

NL





FILE COPY

AD-A179 939



AIR COMMAND AND STAFF COLLEGE

STUDENT REPORT

THE REVOLVING DOOR:
ARE OUR ETHICS SHOWING?

MAJOR MICHAEL A. CRAVENS 87-0570
"insights into tomorrow"

DTIC
ELECTED
MAY 12 1987

S D

E

This document has been approved
for public release and may be
distributed as indicated.

82-5 8-030

DISCLAIMER

The views and conclusions expressed in this document are those of the author. They are not intended and should not be thought to represent official ideas, attitudes, or policies of any agency of the United States Government. The author has not had special access to official information or ideas and has employed only open-source material available to any writer on this subject.

This document is the property of the United States Government. It is available for distribution to the general public. A loan copy of the document may be obtained from the Air University Interlibrary Loan Service (AUL/LDEX, Maxwell AFB, Alabama, 36112) or the Defense Technical Information Center. Request must include the author's name and complete title of the study.

This document may be reproduced for use in other research reports or educational pursuits contingent upon the following stipulations:

-- Reproduction rights do not extend to any copyrighted material that may be contained in the research report.

-- All reproduced copies must contain the following credit line: "Reprinted by permission of the Air Command and Staff College."

-- All reproduced copies must contain the name(s) of the report's author(s).

-- If format modification is necessary to better serve the user's needs, adjustments may be made to this report--this authorization does not extend to copyrighted information or material. The following statement must accompany the modified document: "Adapted from Air Command and Staff Research Report (number) entitled (title) by (author)."

-- This notice must be included with any reproduced or adapted portions of this document.



REPORT NUMBER 87-0570

TITLE THE REVOLVING DOOR: ARE OUR ETHICS SHOWING?

AUTHOR(S) MAJOR MICHAEL A. CRAVENS, USAF

FACULTY ADVISOR LT COL MEREDITH A. MORRISON, ACSC/XP

SPONSOR MAJ RANDY S. KING, HQ AFMPC/DPMRSA2

Submitted to the faculty in partial fulfillment of
requirements for graduation.

**AIR COMMAND AND STAFF COLLEGE
AIR UNIVERSITY
MAXWELL AFB, AL 36112**

This document has been approved
for public release and sale; its
distribution is unlimited.

REPORT DOCUMENTATION PAGE

1a. REPORT SECURITY CLASSIFICATION UNCLASSIFIED		1b. RESTRICTIVE MARKINGS	
2a. SECURITY CLASSIFICATION AUTHORITY		3. DISTRIBUTION/AVAILABILITY OF REPORT STATEMENT "A" Approved for public release Distribution is unlimited.	
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE			
4. PERFORMING ORGANIZATION REPORT NUMBER(S) 87-0570		5. MONITORING ORGANIZATION REPORT NUMBER(S)	
6a. NAME OF PERFORMING ORGANIZATION ACSC/EDCC	6b. OFFICE SYMBOL (If applicable)	7a. NAME OF MONITORING ORGANIZATION	
6c. ADDRESS (City, State, and ZIP Code) Maxwell AFB AL 36112-5542		7b. ADDRESS (City, State, and ZIP Code)	
8a. NAME OF FUNDING/SPONSORING ORGANIZATION	8b. OFFICE SYMBOL (If applicable)	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER	
8c. ADDRESS (City, State, and ZIP Code)		10. SOURCE OF FUNDING NUMBERS	
		PROGRAM ELEMENT NO.	PROJECT NO.
		TASK NO.	WORK UNIT ACCESSION NO.
11. TITLE (Include Security Classification) THE REVOLVING DOOR: ARE OUR ETHICS SHOWING? (U)			
12. PERSONAL AUTHOR(S) Cravens, Michael A., Major, USAF			
13a. TYPE OF REPORT	13b. TIME COVERED FROM _____ TO _____	14. DATE OF REPORT (Year, Month, Day) 1987 April	15. PAGE COUNT 31
16. SUPPLEMENTARY NOTATION			
17. COSATI CODES		18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number)	
FIELD	GROUP	SUB-GROUP	
19. ABSTRACT (Continue on reverse if necessary and identify by block number)			
<p>This study attempts to establish if a conflict of interest exists for Department of Defense officers who leave DOD and take jobs with the defense industry. The term Revolving Door is used by Congress and the media to describe their concern that former DOD officers have obtained personal gain as a result of their previous government positions. The study identifies the population susceptible to the Revolving Door's potential for conflict of interest, what standards of conduct they must comply with to avoid conflict of interest, and what variances, if any, exist to those standards. The study concludes no wholesale conflict of interest can be established solely because former DOD officers accept employment with defense industry. However, improprieties in post-DOD employment reporting give rise to an appearance of conflict. The author recommends DOD emphasize education of individual responsibility for compliance and pursue penalty for clear violations.</p>			
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input type="checkbox"/> UNCLASSIFIED/UNLIMITED <input checked="" type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS		21. ABSTRACT SECURITY CLASSIFICATION UNCLASSIFIED	
22a. NAME OF RESPONSIBLE INDIVIDUAL ACSC/EDCC Maxwell AFB AL 36112-5542		22b. TELEPHONE (Include Area Code) (205) 293-2483	22c. OFFICE SYMBOL

PREFACE

The term Revolving Door represents an issue affecting the Department of Defense and all its military and civilian officers. Congress and the public have adopted that term to describe their concern that Defense personnel who anticipate future employment with a defense contractor might use their positions to gain favor with the contractor, or that former Defense personnel might use their contacts with former colleagues to the benefit of the contractor and to the detriment of the government. Through legislation, Congress is considering increased restriction of post-DOD employment activity of a population it considers at risk for conflict of interest. This study identifies who this population is, what standards they must comply with to avoid conflict of interest, and what observed violations, if any, have occurred.

Accession For	
NTIS GRA&I	<input checked="" type="checkbox"/>
DTIC TAB	<input type="checkbox"/>
Unannounced	<input type="checkbox"/>
Justification	
By _____	
Distribution/ _____	
Availability Codes	
Dist	Avail and/or Special
A-1	



ABOUT THE AUTHOR

Major Michael A. Cravens, United States Air Force, is a resident student at Air Command and Staff College, Maxwell Air Force Base, Alabama. He was commissioned through the Air Force Reserve Officer Training Corps in 1974 following a 1969 - 1972 enlistment in the United States Army. Major Cravens performed missile operations duty with Strategic Air Command, Malmstrom Air Force Base, Montana, from 1974 to 1978. In 1978, he was selected to participate in the Air Force Institute of Technology Education With Industry program and cross train to the contracting and manufacturing career field. Upon completion of his one year AFIT tour with United Technologies Corporation, Sunnyvale, California in 1979, he was assigned to Air Force Systems Command's Western Test Range at Vandenberg Air Force Base, California. As a contract negotiator, he was responsible for acquiring reliable and cost effective telemetry systems and launch communication equipment for Department of Defense satellite programs and Missile-X testing. In 1982, Major Cravens was transferred to Elmendorf Air Force Base, Alaska as a staff contracting officer for Alaskan Air Command. During this overseas tour, he was directly involved in the contracted modernization of the command's 13 remote long range radar stations and their conversion from military to contractor operation and maintenance. In addition to serving as a warranted procuring and administrative contracting officer for AAC headquarters, he was the Deputy Commander of Elmendorf's 5000 Contracting Squadron. He departed for his current assignment at Air Command and Staff College in 1986. Major Cravens holds a Bachelor of Science degree in Agriculture Engineering from Southeast Missouri State University and a Master of Science degree in Systems Management from the University of Southern California.

TABLE OF CONTENTS

Preface.....	iii
About the Author.....	iv
List of Illustrations.....	vi
Executive Summary.....	vii
CHAPTER ONE--INTRODUCTION	
Background of the Problem.....	1
Significance of the Problem.....	2
Problem Statement and Scope.....	2
CHAPTER TWO--POPULATION AT RISK	
Department of Defense Criteria.....	4
General Accounting Office Criteria.....	5
CHAPTER THREE--STANDARDS FOR CONFLICT OF INTEREST AVOIDANCE	
Public Law.....	7
Executive Order.....	10
Department of Defense Directives.....	11
Service Regulations.....	11
CHAPTER FOUR--COMPLIANCE WITH STANDARDS	
Reporting Post-DOD Employment.....	13
Awareness of Reporting Requirement.....	15
Work on Similar DOD Projects.....	16
CHAPTER FIVE--CONCLUSIONS AND RECOMMENDATIONS	
Conclusions.....	17
Recommendations.....	17
BIBLIOGRAPHY.....	19

LIST OF ILLUSTRATIONS

TABLES

TABLE 1--Projected Rate of Compliance for Reporting..... 14



EXECUTIVE SUMMARY

Part of our College mission is distribution of the students' problem solving products to DoD sponsors and other interested agencies to enhance insight into contemporary, defense related issues. While the College has accepted this product as meeting academic requirements for graduation, the views and opinions expressed or implied are solely those of the author and should not be construed as carrying official sanction.

"insights into tomorrow"

REPORT NUMBER 87-0570

AUTHOR(S) MAJOR MICHAEL A. CRAVENS, USAF

TITLE THE REVOLVING DOOR: ARE OUR ETHICS SHOWING?

I. Purpose: To establish if a conflict of interest exists for Department of Defense officers who leave DOD and take jobs with the defense industry.

II. Problem: A perpetual issue impacting the credibility of DOD and its officers is the issue of the Revolving Door. That term describes the concern that DOD personnel who anticipate future employment with a defense contractor might use their positions to gain favor with the contractor, or that former DOD personnel might use their contacts with former colleagues to the benefit of the contractor and to the detriment of the government. Identification by the media and Congress of instances where DOD officers have obtained personal gain as a result of their previous government positions has led to charges of conflict of interest and ethical misconduct. Before Congress imposes additional legislative controls, DOD should identify and correct the causes for such concern itself.

III. Data: The study focused on the one way movement of civilian and military officers from DOD to industry and emphasized post-DOD employment activity. A building block approach was used to establish whether or not a conflict of interest exists i.e., who the population is that's susceptible to the Revolving Door's potential for conflict of interest, what standards of conduct they must comply with to avoid conflict of interest, and what variances, if any, exist to those standards.

CONTINUED

The base line population was identified from various public laws and defense directives which defined grade and compensation criteria. Additional specific criteria concerning DOD job experience was extracted from General Accounting Office studies. Applicable standards of conduct relating to post-DOD employment activity were extracted from public law and promulgated executive order, defense directives, and service regulations. Results of recent General Accounting Office investigations were used to determine the variance from established standards.

IV. Conclusions: Within the limits of the study's focus, no wholesale conflict of interest can be established solely because former DOD officers accept employment with defense industry. Actual conflicts of interest can only be established when specific, clear violations of public law and defense directives occur on an individual basis. However, there are situations where improprieties short of a violation convey the appearance of an actual violation. These probably damage the credibility of DOD and its officers as much as actual violations. Contributing to these improprieties is less than effective DOD enforcement of post-DOD employment reporting requirements. Of and by themselves, additional legislative controls and stricter enforcement of existing standards should not be expected to preclude conflicts of interest. Ultimate responsibility lies with the individual officer, educated about the intent and content of conflict of interest avoidance laws and regulations.

V. Recommendations: The author recommends DOD initiate several actions as evidence of our interest in self-regulation of the Revolving Door. Primary emphasis should be placed on education of conflict of interest regulations and the individual's responsibility for compliance. Emphasize vigorous enforcement and penalty when clear violations occur. Written evaluation guidance for reviewing reports of post-DOD employment activity should be developed and used at the DOD level. Additionally, a large percentage of the DOD population at risk of Revolving Door conflict of interest is exempt from reporting their defense industry employment because of grade limitations. DOD can provide evidence of its genuine interest in avoiding conflict of interest situations for all its personnel by advocating

CONTINUED

elimination of these grade restrictions. None of these suggested actions involve large-scale change. Until the Department of Defense moves to correct existing weaknesses, our credibility will remain stuck in the Revolving Door.

Chapter One

INTRODUCTION

BACKGROUND OF THE PROBLEM

Some pass through smoothly, others get snagged, but the Revolving Door twirls on. At least 1,000 workers cross over each year between the weapons industry and the Pentagon--apparently the only Federal agency that attempts to keep even sketchy records of those who cross from one side to the other. The process causes indignation among politicians and occasional scandal (4:6).

The Department of Defense, and especially the Air Force because of large expenditures for sophisticated products of the aerospace industry, finds itself continually under the critical eye of the American public and Congress. A perpetual issue impacting DOD credibility and defying resolution is the "Revolving Door." That term describes the concern that Defense personnel who anticipate future employment with a defense contractor might use their positions to gain favor with the contractor, or that former Defense personnel might use their contacts with former colleagues to the benefit of the contractor and to the detriment of the government (10:2). Identification by the media and Congress of instances where DOD officers, both civilian and military, have obtained personal gain as a result of their previous government positions has led to charges of conflict of interest and ethical misconduct. Critics point to cases like those of Lt. General Kelly Burke and Mary Ann Gilleece as examples of Revolving Door conduct the Defense Department has failed to self-regulate. In the early 1980s, Burke managed Air Force research, development, and procurement efforts. Involved in source selection, he helped decide whether to buy the F-15 and F-16 fighters and B-1B bomber--and in what quantities. In 1982, he left the Air Force and formed a consulting firm with two other retired general officers. Their clients included six of the 10 biggest defense contractors (2:11-F). Ms. Gilleece was a Pentagon senior executive responsible for supervising DOD procurement policy. In 1985, she wrote to Westinghouse and several dozen other contractors, while still in her DOD executive position, offering to work for them when she left government service. She couldn't see anything wrong in her actions and stated, "I have never used Department of Defense stationery to

solicit future business." Following Congressional attention, Gilleece was ultimately dismissed (3:2-E).

Counter arguments state there is nothing illegal in these practices and in fact, the nation benefits in the cross flow of know-how. Both in and out of the ranks of Revolving Door critics, there is a wide divergence of opinion on its affect on government. Congress sees value in a partnership between the Pentagon and defense industry that ensures quality weapons at a fair price; that involves having DOD officers who understand how weapons are made, and company executives who know what the military needs (4:6). Additionally, the actual acquisition process, complicated by the large quantity of Federal, Department of Defense, and military services procedural requirements drives close military-industry cooperation and a demand for experienced acquisition specialists.

Regardless, Congress has insisted DOD initiate self-regulation of the Revolving Door and mandated legislative control when that self-regulation is ineffective. The Defense Department must contend with a complicated issue involving precepts of professional responsibility, ethics, economic well being of the individual, law, and public perception. Within the weapon systems acquisition community, there is basic agreement a problem does exist. But, is it an actual one with clear violations of procedural regulations or public law, or is it a perceived one with questionable infringement of unwritten standards of conduct?

SIGNIFICANCE OF THE PROBLEM

Department of Defense military and civilian officers are "private keepers of the public interest." Executive Order 11222 clearly states the policy of conduct for these individuals:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions (7:11).

In order to maintain that trust and retain the confidence Defense Department officers must have from our fellow citizens, we have to identify our own suspect problem areas, take corrective action if required and prevent recurrence.

PROBLEM STATEMENT AND SCOPE

This study will address the following problem: Does a conflict of interest exist for Department of Defense officers

leaving DOD and taking jobs with the defense industry? Subsequent chapters will identify who is most likely to enter the Revolving Door with its potential for conflict of interest, what standards of conduct exist to avoid conflict of interest, the nature of compliance with these standards, and offer conclusions and recommendations.

The following limitations and definitions will apply within this study unless specifically stated otherwise:

1. "Acquisition" is defined as the process of acquiring industry supplied products for Department of Defense use. It includes the primary functions of requirements identification, research and development, contracting, and source selection.
2. "Officers" refers to military in the grade of O-4 and above and civilian employees GS-13 and above.
3. Study focus is on the one way movement of officers from Department of Defense to industry emphasizing post-DOD employment activity. The movement of industry personnel into DOD position is not addressed.
4. Information provided does not attempt to define or show evidence of ethical or unethical conduct. No inference as to the propriety of the DOD acquisition process is intended.

Every attempt has been made to scope the problem and exploit the most current data available on the problem. Sources cited include professional journals, media exposés, Congressional studies, public records and federal and Department of Defense directives.

Chapter Two

POPULATION AT RISK

Although the entire Department of Defense workforce is susceptible to conflict of interest activity and participation in the Revolving Door, a specific population has been identified as "at risk." This population, by virtue of grade, time in service, and DOD work experience and responsibilities, possesses the greatest potential for possible conflict of interest or the appearance of conflict of interest. DOD, in its efforts to comply with public law mandating post-DOD employment reporting requirements, defined this population itself. The General Accounting Office, under request from Congress, has recently advocated an expansion of the criteria for identifying the population at risk. The recommendations resulted from the Senate Committee on Governmental Affairs request of the GAO to evaluate the Department of Defense reporting process (10:1). Viewed in tandem, the two agencies' criteria provide a profile of the population participating (or expected to participate) in the Revolving Door phenomenon.

DEPARTMENT OF DEFENSE CRITERIA

Prior to the 1986 Defense Authorization Act, legislation required DOD to compile and transmit to Congress the employment activity of former DOD personnel who:

-Were military officers, O-4 (Major or Lt. Commander) and above with 10 years of active service, or former civilian employees paid at the basic rate payable for a GS-13 or above, and

-Earned an annualized salary of \$15,000 or more working for a major defense contractor (one with at least \$10 million in negotiated contracts) (10:14).

The 1986 Defense Authorization Act amended the previous requirements by:

-Raising the annualized salary to \$25,000 or more and working for contractors with \$10 million in any type of contract (6:118).

These criteria are the minimum identified in the legislation and resulting public law. In turn, DOD identifies this

population as the one requiring reports of defense related employment. These criteria have been under some degree of criticism from the General Accounting Office who prefers to include specific DOD acquisition experience as a more accurate indicator of risk.

GENERAL ACCOUNTING OFFICE CRITERIA

In addition to DOD's criteria as required by existing legislation, GAO asserts former officers should detail their Defense Department experience relating to:

- Official contact with defense contractors by whom they are now employed, or
- Working on projects similar to those on which they now work (10:24).

Additionally, individuals who performed the following acquisition related duties within their last two years of Department of Defense employment are identified by GAO as most at risk of potential conflict of interest (10:21-22, 11:21):

- Procurement policy. Formulating or assisting in the formulation of procurement policy.
- Program management. Managing or assisting in the management of a procurement or acquisition program.
- Procurement or contract administration. Administering, negotiating, selecting, awarding, approving modifications or any other activities related to administering a contract.
- Cost and technical analysis or other advisory services. Cost analysis, price analysis, quality assurance, operation and developmental testing, budgeting, auditing, or other activities related to technical advice or recommendation on a contract.
- Source selection process. Participation or involvement in the source selection process as the selection authority or as a member of a source selection panel, technical advising committee, or any other formal group related to the contract award decision (11:24).

In their 4 March 1986 report to Congress on the DOD Revolving Door disclosure system, the General Accounting Office observed that the existing grade criteria (O-4 and above and GS-13 and above) exempted over half the former Defense personnel working in defense-related areas from conflict of interest scrutiny. They

contend those individuals of lesser grade fulfilling the above acquisition responsibilities are also in the population at risk (10:21).

The Department of Defense criteria, as specified by existing public law, is the standard used for identifying and reporting post-DOD employment relationships. That criteria, along with standards of conduct intended to avoid conflicts of interest, is identified in public law enactments, executive order, defense directives, and service regulations, all applicable to the DOD officer at risk of the Revolving Door's potential for conflict.

Chapter Three

STANDARDS FOR CONFLICT OF INTEREST AVOIDANCE

Conflict of interest: Any act or position taken by a public official that places or appears to place the fair and unbiased administration of his public office in substantial conflict with his personal economic interests (5:196).

The population at risk described in the preceding chapter, along with all other Department of Defense personnel, is affected by (and required to comply with) a spectrum of standards addressing conflict of interest. The majority of these standards have emerged within the last 30 years and evolved primarily as a result of Congressional concern over the relationship between the defense industry and DOD. Awareness of the Revolving Door's potential for conflict of interest has usually been as a result of the questioned conduct of Defense officers seeking and finding employment with the companies who supply DOD. Exploration of the standards contained in public law, executive order, DOD directive, and service regulation reveals both implied intent and explicit controls aimed at avoidance of conflict of interest. Public law maintains an omnipotent role in defining what constitutes a conflict and is key to targeting the significance of the Revolving Door problem.

PUBLIC LAW

1963 represents a hallmark year for conflict of interest legislation. President Kennedy made reform of government employee ethical conduct a major goal of his administration. The conflict of interest laws in effect prior to that time were fragmented and often conflicting for enforcement purposes. The legislation enacted in response to his call for more realistic laws was Public Law 87-849. This law included a specific chapter dealing with bribery, graft, and conflict of interest. It provided a code of ethical standards which government activities were expected to use to develop specific standards of ethical conduct for their personnel. Additionally, the law provided enforcement agencies the legal remedies needed to deal with standards of conduct violations. Extracts from sections of the law particularly pertinent to the Revolving Door issue include:

--"Public official" means an officer or employee or person acting for or on the behalf of the United States, or any department, agency, or branch of Government.

-Whoever, being a public official, former official, or person selected to be an official. . . directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him. . . shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

-Whoever, having been an officer or employee of the executive branch of the United States Government. . . after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed or participates in such concerning an activity under his official responsibility as an officer or employee of the Government within a period of one year prior to the termination of such responsibility. . . shall be fined not more than \$10,000 or imprisoned for not more than two years, or both (1:225,227,232).

Public Law 87-849 has been criticized because it levies exclusive, additional restrictions upon retired regular military officers. These individuals are permanently prohibited from receiving or agreeing to receive any compensation for representing any person in the sale of anything to the government department from which they retired and a two year ban is imposed on the pursuit of any claim against the government if the claim involves the department he retired from or if it pertains to any subject matter which he was directly involved with while on active duty. Although not specifically germane to the scope of this study's problem, it should be noted the law expressly exempts enlisted personnel from its substantive provisions.

The 1986 Defense Authorization Act amended the law by adding the requirement for civilians paid at a rate equal to or greater than the base rate of a GS-11 and active military in the pay grade of O-4 or above, who participate in the performance of a procurement function in connection with a contract awarded by DOD and are contacted by the defense contractor awarded the contract

regarding future employment, must report the contact to their supervisor and to the designated agency ethics official. Until the employment opportunity is rejected, they must disqualify themselves from the performance of all procurement functions relating to contracts with that contractor. Failure to report or to disqualify themselves can result in an administrative penalty of up to \$10,000 and a 10 year prohibition on being employed by the contractor concerned (6:118-119).

Undoubtedly, the most significant legislative action affecting the Revolving Door potential for conflict of interest occurred in 1969. Senator William Proxmire sponsored legislation, later to be enacted and codified as 10 U.S.C. 2397, requiring annual disclosure of former DOD officers' defense industry related employment. Stating that "sunlight is a great disinfectant," he asserted that legislation requiring post-DOD employment disclosure would uncover the Revolving Door's conflicts of interest (10:10). In keeping with recent Congressional attention to the Revolving Door, the Defense Authorization Act of 1986 amended the basic 1969 law and currently states:

-Former DOD military officers, O-4 (Major or Lieutenant Commander) and above with 10 years of active service, or civilian employees paid at the basic rate payable for a GS-13 or above, and earning an annualized salary of \$25,000 must report. Also, employees of contractors with \$10 million in any type of contract must report.

-Officers must file a report within 90 days of when they accept employment and then subsequently if their duties change significantly. Annual reports are no longer required.

-Reports are required up to two years from separation from DOD.

-Required to be reported is a description of the work performed for the contractor and a description of any similar work for which the employee had any responsibility as an officer of DOD.

-A report of the duties performed while at DOD in the last two years of employment is required.

-Individuals must identify any disqualification action they took relating to the defense contractor they work for during the two years before they accepted employment with the contractor.

-The penalty for not filing a required report is an administrative fine (changed from the basic law's criminal penalty) of up to \$10,000 as determined by the Secretary of Defense. The law requires a full hearing on the record and provides for judicial review (6:116-117).

Although public law is seen as the definitive source of protecting public interest, law scholar Bayless Manning made the following observation about Public Law 87-849 shortly after its enactment:

It is important to stress the limited role played by statutes in the field of conflict of interest regulation. The Senate, in its conduct of confirmation proceedings, has frequently imposed special conflict of interest standards not found in the statutes. Congress may also bring strong pressure to bear through its investigatory process. Many relationships that might be legally acceptable, and not considered morally reprehensible conflicts of interest, may be politically very sensitive and politically unacceptable. And finally, many agencies of the government have developed their own operating rules and their own internal regulations for dealing with the problem of ethics as it effects their own operations. No one called upon to consider a question of conflict of interest in the federal service will have done his job unless he has weighed and investigated, in addition to the statutes in the field, the applicable administrative regulations, likely Congressional response, and the general political environment (1:10-11).

Accordingly, the above articles of public law constitute the framework of standards of conduct the executive branch, and in turn the Department of Defense and military services, must implement through executive order, department directives and service regulations.

EXECUTIVE ORDER

President Johnson issued Executive Order 11222 in 1965 for the purpose of implementing the provisions of PL 87-849. Applicable to every employee of the Executive Branch, it was more detailed and strict than any existing standards of conduct in any branch of the government. It identified that employees avoid any action which might result in, or create the appearance of:

- Using public office for private gain.
- Giving preferential treatment to any organization or person.
- Impeding government efficiency or economy.
- Losing complete independence or impartiality of action.

-Making a government decision outside official channels.

-Affecting adversely the confidence of the public in the integrity of the Government (7:11).

Authority for enforcement of the order was delegated to the Civil Service Commission and included the authority to check on compliance by the various executive departments and their employees. In accordance with the requirements of Executive Order 11222, the Department of Defense issued DOD Directive 5500.7, Standards of Conduct.

DEPARTMENT OF DEFENSE DIRECTIVES

Issuance of DOD Directive 5500.7 and subsequent 7700.15 implemented almost verbatim the requirements of public law and executive order. However, two areas of the DOD Directives, added above and beyond the requirements of the source documents, apply to study of the Revolving Door problem. The DOD Directives called out special recognition of technical conflict (those specific acts detailed) versus appearance of a conflict of interest. It acknowledged the potential loss of public confidence from either type and prohibited any private business or professional activity which placed an employee in a conflict position (8:2). The directives also charged the military departments to survey the post-DOD employment of former officers and routinely review their various statements of employment to assure compliance with applicable statutes and regulations (9:1,7-8).

In turn, each of the military services have promulgated regulations concerning standards of conduct and avoidance of conflict of interest poised by activity like that of the Revolving Door.

SERVICE REGULATIONS

Service regulations similar to Air Force Regulation 30-30, Standards of Conduct, implement the requirements of DOD Directives, Executive Order 11222 and the various public laws concerning conflict of interest avoidance. Their intent is to explain personal standards of conduct and prevent conflict between private interests and official duties. They also provide for disciplinary action in instances of violation. Representing the lowest level of abstraction in conflict of interest requirements, they are the first and most obvious level of compliance for the individual DOD officer. They prescribe by exception those activities the individual must avoid. Using AFR 30-30 as a standard of example, its prohibitions on the defense related employment activity of former DOD officers is identical

to that of all the higher level source documents. The Air Force does specify a separate regulation for reporting post-DOD employment and identifies an office of primary responsibility for collecting and reviewing the reports.

In total, the law, executive order, defense directives, and service regulations provide implied ethical intent and explicit standards of conduct for avoiding conflict of interest. The area of controversy that Congress has focused its attention on is DOD's enforcement of defense related employment reporting requirements and the effectiveness of the requirements to detect possible conflict of interest. They point to recent General Accounting Office investigations which find questionable compliance.

Chapter Four

COMPLIANCE WITH STANDARDS

Measuring compliance with standards of conduct by the Department of Defense population at risk provides the most accurate indication of whether a conflict of interest exists for officers leaving DOD and taking jobs with the defense industry. Current, reliable measurement is scarce (and that fact serves to fuel the concern of Congress over the Revolving Door) (10:8-9). The General Accounting Office offered the most comprehensive compliance investigation available in a 1986 report to the Chairman, Senate Committee on Governmental Affairs. Their report was confined to the subject of post-DOD employment reporting and concentrated on the completeness and accuracy of reports, determining the degree of awareness by former DOD officers of employment reporting and restrictions, and identifying the number of former DOD officers working on the same or similar projects they worked on when they were with DOD. The GAO findings can be expected to influence Department of Defense attention to post-DOD employment report procedures and Congressional attitudes toward future legislative control of the Revolving Door.

REPORTING POST-DOD EMPLOYMENT

The GAO determined current reporting requirements are not an effective disclosure mechanism for the following reasons:

-A significant quantity of former DOD officers required to report their employment are not doing so.

-Many people who leave DOD and become employed by defense contractors are not required to report their employment. They are exempted because of the dollar value threshold of DOD business and the grade or rank required to report (10:14-15).

Employing the reporting standards required by DOD Directives, the GAO analyzed the 1983 response of individuals required to report and projected only about 30 percent required to report did so. Table 1 shows the projected rates of compliance GAO found for each of the services.

	Expected to file	No. who filed
Army	1,013	138 (13.6%)
Navy	1,310	236 (18.0%)
Marine Corps	248	46 (18.5%)
Air Force	1,924	1,166 (60.6%)
Civilians	1,349	105 (7.8%)
TOTAL	5,844	1,691 (28.9%)

Table 1. Projected Rate of Compliance for Reporting (10:16)

The GAO's sampling did have self-identified limitations. They relied on the existence of security clearances held by former DOD employees working at defense contractor facilities to identify their study population. Thus, the projected report rate did not include those working for a defense contractor without a clearance or those providing consulting services on an individual basis. Regardless, GAO was 95 percent confident that the true filing rate for their study population was between 23.9 and 33.9 percent (10:16).

In a specific review of former DOD officers working for eight major defense contractors, only 46.6 percent reported as required. The contractors ranged from the largest to the 26th largest defense contractor by volume of sales. This higher rate of compliance in reporting post-DOD employment was attributed to several factors:

-The contractors chosen had heavy reliance on DOD contracts and the greatest number of former DOD officers reporting in fiscal years 1981 to 1983.

-Each of the contractors reminded employees of the requirement to report defense related employment.

-The contractors in total hired more former Air Force officers (56.2 percent of the total number of former DOD employees hired). Former Air Force officers tended to report at

a higher rate. GAO proposed the annual reminder sent out by the Air Force to all retired officers may have caused the difference (10:18).

No violations of the report requirement have been referred for prosecution. Prior to amendments caused by the fiscal year 1986 Defense Authorization Act, DOD was obliged only to compile the reports, maintain them for public review, and pass them to Congress. Now, the Secretary of Defense must determine when an individual has failed to file a required report (10:18-19).

AWARENESS OF REPORTING REQUIREMENT

GAO documented a significant difference between the level of awareness of the post-DOD employment reporting requirement and the actual compliance. Three factors probably contributing to the difference were:

- Possible confusion over what forms to use and when to report.
- Difference in emphasis of each service toward distribution of report forms.
- The influence annual reminders have on reporting requirements (10:20)

Surveying retired DOD personnel who left in fiscal years 1980 through 1983 and who held security clearances with major defense contractors, GAO determined:

-About 97 percent of respondents were aware of the reporting requirements but, only about 58 percent were aware of the specific need to file when employed by a major defense contractor.

-78 percent found the post-DOD employment reporting and restriction information provided by DOD to be clear and comprehensive. 15 percent found it to be of marginal clarity and the balance found it unclear (10:19-20).

All of the military services are required to advise departing officers of the need to file a report of their DOD and defense industry related employment. However, each service accomplishes the requirement in a different manner with a resulting difference in awareness among former officers. Air Force and Army personnel had rates of 79 and 75 percent, respectively. The Navy and Marine Corps rates were 43 and 41 percent, respectively (10:19-20). The inference made by GAO was that fragmented, less than aggressive notification by DOD of reporting requirements and methods to report degraded the Revolving Door disclosure system.

WORK ON SIMILAR DOD PROJECTS

The GAO used a survey guaranteeing anonymity of the respondent to determine the extent former DOD officers work for defense contractors on the same or similar projects they worked on while with DOD. The survey was provided to officers who left DOD during fiscal years 1983 and 1984 and held industrial security clearances (again, an indicator to GAO of defense related employment). In addition to questions about work on similar projects, the survey questioned relationships officers had with contractors while they were still at DOD, and about contacts with former DOD associates after they started work for a defense contractor.

The survey results revealed the following:

-About 21 percent of former officers worked on the same project for a defense contractor that they were involved with while with DOD.

-Approximately 73 percent had responsibilities at DOD which affected defense contractors.

-About 82 percent of former officers had continued to communicate with DOD officials--45 percent with associates they had previously worked with (11:2).

Although GAO did not offer any analysis at time of publication of these survey results, they have promised a future comprehensive report to Congress on this particular portion of their investigation.

The Department of Defense, after receiving preliminary notice of the General Accounting Office findings on the three main areas of attention, voiced that the statistics and conclusions on compliance be approached with caution because of the limitations on the data used. Because statistical projection techniques were used for analysis, DOD stated no absolute conclusions concerning existence of actual conflict of interest were possible (10:23). The author agrees with DOD but, recalls the intent of Executive Order 11222 and the explicit requirements of DOD Directive 5500.7 to avoid even the appearance of conflict of interest.

Chapter Five

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The objective of this study was to address the following problem: Does a conflict of interest exist for Department of Defense officers leaving DOD and taking jobs with the defense industry? Key factors bearing on the problem were identified and analyzed: Who is most likely to participate in this problem known as the Revolving Door, what standards of conduct apply to this population, and what variances to compliance with these standards exist.

Several conclusions can be drawn from this examination:

-Wholesale conflict of interest for former DOD officers who participate in defense industry employment cannot be established. Actual conflicts of interest can only be established on an individual basis where there are specific, clear violations of department directives and service regulations charged with implementing public law.

-Conflict of interest situations can take various forms, including improprieties that do not violate a specific law or regulation and some action or inaction which conveys the appearance of violation. Both can be as damaging to DOD's credibility as an actual violation.

-Department of Defense efforts at enforcing post-DOD employment laws and regulations have been limited. This is probably due to DOD uncertainty over the extent of their authority and vague statutory language which fails to identify all specific prohibited post-DOD employment activity.

-Additional restrictive legislation and more stringent administrative enforcement of laws and regulations probably cannot assure avoidance of conflicts of interest. Ultimate responsibility for avoiding conflict of interest lies with the individual officer, educated about the intent and content of existing law.

RECOMMENDATIONS

This study describes a problem affecting the Department of Defense and all its members' ethical image and credibility. The findings are informational in nature and a need for large-scale change is not expected or desired. However, the issue of the Revolving Door will remain a stigma until DOD initiates (in lieu of Congressional direction) corrective action on several identified weaknesses. The following actions are suggested:

-Emphasize education of conflict of interest regulations and individual responsibility for compliance.

-Reports of post-DOD employment activity of former DOD officers undergo review for possible conflict of interest at the DOD level employing written evaluation guidance.

-Emphasize vigorous enforcement and penalty when clear and obvious violations of law and regulations occur.

-Advocate elimination of discriminatory grade limitations for reporting post-DOD defense industry employment.

Although difficult to quantify, the positive effect of such initiatives may far outweigh the negative perception by the American public and Congress of the existing Revolving Door issue.

BIBLIOGRAPHY

A. REFERENCES CITED

Books

1. Manning, Bayless. Federal Conflict of Interest Law. Cambridge, Massachusetts: Harvard University Press, 1964.

Articles and Periodicals

2. Adams, Bob. "Defense 'Revolving Door' Could Lead to Conflict, Critics Say." Current News, 28 April 1983, pp. 11-F - 12-F.
3. Editorial. "Waste, Fraud and Abuse." Current News, 25 August 1985, p. 2-E.
4. Keller, Bill. "Cashing in on the Pentagon Connection." Current News, 26 August 1985, pp. 6, 8.
5. Petrowitz, Harold C. "Conflicts of Interests in Federal Procurement." Law and Contemporary Problems, Vol. 29, No. 1 (Winter, 1964), p. 196.

Official Documents

6. US Congress. House. Report 99-235, DOD Authorization Act, 1986. 99th Congress, 28 July 1985. pp. 116-120.
7. US Department of the Air Force. AFR 30-30, Standards of Conduct, Attachment No. 1, Executive Order 11222. Washington, DC: HQ USAF, 29 December 1978.
8. US Department of Defense. DOD Directive 5500.7, Standards of Conduct. Washington, DC: Pentagon, 15 January 1977.

CONTINUED

9. US Department of Defense. DOD Directive 7700.15, Reporting Procedures on Defense Related Employment. Washington, DC: Pentagon, 30 October 1970.
10. US General Accounting Office. DOD Revolving Door--Many Former Personnel Not Reporting Defense-Related Employment (GAO/NSIAD-86-71). GAO Series, Number B-218976, 4 March 1986.
11. US General Accounting Office. DOD Revolving Door - Relationships Between Work at DOD and Post-DOD Employment (GAO/NSIAD-86-180BR). GAO Series, Number B-218976, 31 July 1986.

B. RELATED SOURCES

Official Documents

US Congress. Senate and House. Hearings Before The Joint Committee on Defense Production. DOD-Industry Relations: Conflict of Interest and Standards of Conduct. 94th Congress, 2 and 3 February 1976.

US Department of the Air Force. AFR30-14, Procedures for Reporting on Defense Related Employment. Washington, DC: HQ USAF, 6 May 1981.

US General Accounting Office. What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced? (FPCD-78-38). GAO Series, Number B-103987, 28 August 1978.

Unpublished Materials

Cantwell, Nicholas D., Major, USAF. "An Analysis of the Standards of Conduct Directives in the Department of Defense." Research Report Prepared at the Air Command

CONTINUED

and Staff College, Air University, Maxwell Air Force Base, Alabama, 1973.

Maruszak, Paul S., Lt. Comdr., USNR. "An Analysis of DOD's Standards of Conduct Applicable to Personnel Assigned to the Contracting Arena." Thesis Prepared at the Naval Postgraduate School, Monterey, California, 1980.

E N I D

5 — 8 7

DT / C